GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

CAF & CS Deptt – APSCSCL – Sri J. Purna Chandra Rao, working as Typist on Daily Wages in District Office, APSCSCL, Guntur – Regularization of services as Assistant Grade.III in terms of G.O.MS.NO. 212, Finance Department, dated 22-04-1994 – Orders – Issued.

CONSUMER AFFAIRS, FOOD AND CIVIL SUPPLIES (CS.I) DEPARTMENT

G.O.MS.No. 12 Dated: 28-07-2017
Read the following :

1. From VC & MD, APSCSCL, HYd., Lr.No. P.Admn.9(21)/89, dt. 04-07-2012, 27-12-2012.
2. Govt Letter No.1818/CS.I(2)/2012-3, dated.06-07-2013.
3. From Vice Chairman & Managing Director, APSCSCL, HYd., Lr.No. P.Admn.9(21)/89, dt. 04-07-2012, 16-02-2015.

ORDER:

The Vice Chairman & Managing Director, APSCSCL has reported that Sri J. Purna Chandra Rao was temporarily appointed as Typist on Daily wage basis w.e.f. 03-01-1985. He was continued on Daily wages till 30-10-1988 and he was terminated orally from 31-10-1988 onwards. Aggrieved by this, the said Daily Wage employee filed a petition I.D.NO.283/93 before the Labour Court against his termination of services. Labour Court, Guntur passed an award on 24-06-1992 setting aside the oral termination order and directing the Corporation to reinstate the individual into service as Clerk cum Typist with continuity of service and other attendant benefits but without back wages. Against this, Corporation filed W.P. and the Hon'ble High Court passed interim orders in W.P.M.P. on 06-04-1993 suspending the termination orders of the respondents. Accordingly, Sri J.Purnachandra Rao, was reinstated into service on 05-06-1993 as Clerk cum Typist on Daily Wages w.e.f. 05-06-1993.Sri J. Purna Chandra Rao, Clerk cum Typist (DW) also filed W.P. to direct the Corporation to regularize his services in the Corporation as Clerk cum Typist as per G.O.Ms.No. 448, Food & Agriculture (C.S.III) Department dated 16-06-1989 by paying the back wages. The Hon'ble High Court passed orders on 24-06-1997 in W.P. which reads as follows;

" In our view the said view of the Labour Court is just and proper. Hence the same does not warrant any interference. The petitioners contention that the Labour Court ought to have ordered for regularization of the petitioners services is quite alien to the issue. That has to be pursued before the Labour Court. If the petitioner feels that his services should have been regularized in view of G.O.Ms.No. 448, dt. 16-06-1989, it is open for him to make a representation to the respondent – authorities. If such representation is given, the same shall be considered as per law by the respondent – authorities. The Writ petition is accordingly disposed of No. costs"

2. The Vice Chairman & Managing Director, APSCSCL, Hyd., has further stated that finally the Hon'ble High Court delivered final judgement on 18-04-2003 upholding the order of the Labour Court, Guntur dated 24-06-1992 to reinstate the petitioner as Typist with continuity of service but without back wages. From then onwards, the individual is representing to regularize his services w.e.f. 03-01-1985 as per G.O.Ms.No. 448, F&A (CS.III) Dept., dated 16-06-1989. Sri J.Purna Chandra Rao, joined as Typist on daily wages on 03-01-1985. The oral termination order on 31-10-1988 of DM, APSCSCL, Guntur was set aside and he was allowed continuity of service. Government in G.O.Ms.No. 448, F&A (CS.III) Dept., dated 16-06-1989 has regularized the services on daily wage employee appointed after 30-06-1982. The name of the said Daily wage Typist has already been sent to Govt. along with other daily wage employees working in APSCSCL for regularization of his services. As per

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APSCSCL Employees Recruitment & Service Regulations, the qualification for the post of Typist is graduation and Typewriting Higher Grade (English & Telugu). In view of the directions of the Hon'ble court the length of service of the individual will have to be counted from January 1985 and accordingly, he becomes eligible for regularization of his services as per G.O.Ms.No. 212, dated 22-04-1994, since his length of service as on 25-11-1993 will be more than five yrs. Finally, the Vice Chairman & Managing Director, has requested the Government to examine the request and issue necessary orders to the individual for regularization of his services w.e.f. 03-01-1985.

3. The Vice Chairman & Managing Director in his letter dated 16-2-2015 has informed that keeping in view of the rejection orders of the Government the present case requires re-examination on the point of non-completion of 5 years service as per the directions of the Labour Court, he was reinstate into service, but from 5-6-1993 re-instatement of the individual from 5-6-1993 is contrary to the order of the Labour Court, Guntur. The Labour Court ordered for continuity of services for date of termination but without back wages. The same was up held by the Hon'ble High Court in WP No. 4236 of 1993 on 18-04-2003 that the individual should be reinstated with continuity of service. The length of service of the individual will have to be counted from January 1985 and not from 5-6-1993. Accordingly he became eligible for regularization of services as per G.O.Ms.No.212, dated 22-04-1994, since his length of service as on 25-11-1993 will be more than five years. But Government have rejected the proposal of the individual on the ground that the individual is not having required service i.e., 5 years even though specific directions have been given by the Hon'ble High Courts and the individual is having more than 5 years of service in pursuance of the orders of the Hon'ble High Courts to examine the request and issue necessary orders on the request of the individual for regularization of his service w.e.f., 3-1-1985.

4. **G.O.Ms.No.** 212, dated 22-04-1994 clearly indicated the method to be followed while filling up the vacancies with the NMRs whose services were proposed to regularize. The eligible candidates can absorb as and when vacancies are arise by way of retirement / resignation /death / dismissal from service. The finance department has given clarification that when there is no equal post is not available, with the consent of the NMR employee, the individual service can be absorbed in the lower cadre post i.e., Class IV also. In the present case, the individual filed a case before the Industrial Tribunal against his termination by the Corporation. The Industrial Tribunal given judgment in favour of the individual with continuity of service without back wages. Due to continuity of service the individual has completed 5 years required service as on the cut of date i.e., 25-11-1993 fixed by the Finance Department . The same was upheld by the APHC. This order became final. Consequently, the Vice Chairman and Managing Director, APSCSCL submitted proposal to the Government for regularization of services under G.O.MS.NO. 212/1994. The Finance Department in its earlier comments stated that there is no clear vacancy of Typist and directed to submit proposals regularizing the services of the individual in the lower cadre i.e., Asst. Grade.III post which is lower than the post held by the individual at present. The Finance Department examined the above proposal in all stages and agreed to regularize the services of the individual in the lower cadre post.

5. The Government after careful consideration of the proposal of the Vice Chairman and Managing Director, APSCSCL Hyderabad in consultation with the Finance Department hereby regularize the services of Sri J.Purna Chandra Rao, Typist (Daily Wages) working in the Office of the District Manager, APSCSCL, Guntur against the proposed vacancy of Asst. Grade III in terms of G.O.Ms.No.212, Finance (PC.III) Department, Dated: 22.04.1994, from prospective date as per Memo No:573/225/A3/PC.III/97, dated:01-09-1997 i.e., from the date of issue of orders, subject to condition that the said vacancy is clear, regular and continued from time to time till date and no senior eligible person is overlooked/omitted and subject to following rule of reservation.

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6. This order issues with the concurrence of Finance(HR.III) Department vide their U.O.No.32026/57/2016(Fin.Computer no.113779)Department Dt.18-07- 2017.

7. The Vice Chairman and Managing Director, APSCSCL, Hyderabad, is requested issue necessary proceedings in this regard.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B.RAJSEKHAR
E.O.PRL.SECRETARY TO GOVERNMENT

To
The Vice Chairman and Managing Director, APSCSCL, Hyderabad
The Individual through the Vice Chairman and Managing Director, APSCSCL, Hyderabad
Copy to :
The Finance (HR.III) Department
Sf/sc

// FORWARDED BY ORDER //

SECTION OFFICER